



# Public Service Commission

## State of North Dakota

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February 11, 2016

The Honorable Al Jaeger  
North Dakota Secretary of State  
Secretary of the Emergency Commission  
State Capitol  
Bismarck, North Dakota 58505

RE: Request approval to assess Dakota Access, LLC additional fees.

Dear Secretary Jaeger:

The Public Service Commission requests approval from the Emergency Commission to assess Dakota Access, LLC additional fees reasonably necessary for the completion of the PSC's evaluation of transmission facility corridor and transmission facility route evaluation.

A more detailed explanation of this request is presented in the attached Emergency Commission Request Part E. Narrative.

Sincerely,

  
Darrell Nitschke  
Executive Secretary

Attachment: SFN 02580

c: w/attachment: Stephanie Gullickson, OMB  
Allen Kundson, Legislative Council  
Public Service Commissioners  
PSC Public Utilities Division  
PSC General Council

150 PU-14-842 Filed: 2/11/2016 Pages: 4  
Letter enclosing request to Emergency Commission

Public Service Commission

Darrell Nitschke



**REQUEST TO EMERGENCY COMMISSION**  
**STATE OF NORTH DAKOTA**  
 SFN 02580 (9-2007)

Submit original and 7 copies to Secretary of State

For reference, see North Dakota Century Code, Chapter 54-16

Date 2/10/2016	Department Number 408	Department Name Public Service Commission
Authorized Department Signature <i>Josh Gallion</i>	Name of Contact Person Josh Gallion	Telephone Number 701-328-4020

**PART A: BACKGROUND**

1. Was any portion of this request presented to the last legislative session? (If yes, please explain legislative action in narrative) .....  Yes  No

2. Is any portion of this request a new program? (If yes, please explain in narrative) .....  Yes  No

3. Will the legislature be asked to continue this program in the next biennium? .....  Yes  No

**PART B: FTE**

4. Will this program require an increase in authorized FTE? .....  Yes  No  
 If yes, how many? .....

**PART C: INCREASE IN APPROPRIATION LINE ITEM**

7. Will this program require state general fund money for a match in this biennium? .....  Yes  No  
 If yes, estimate the amount of general fund money needed and explain its source in the narrative .....

8. Will this program require state general fund money in the next biennium? .....  Yes  No  
 If yes, estimate the amount of general fund money needed in the next biennium .....

9. Source of Funds for increased spending authority (check applicable box) Fee paid by siting applicant, Special Funds w/ Continuing Appropriation  
 Federal  State Contingency Funds  Other

10. Is this a pass-through from another agency?  Yes  No If yes, from which agency? .....

11. If this program is federally funded, will the legislature be asked to continue it if federal funds are no longer available? .....  Yes  No  
 If yes, estimate the amount of general fund money needed in the next biennium .....

12. Specify below the line item to be increased and the amount of the increase.

<u>Line Item</u>	<u>Amount</u>
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**PART D: INTRA-AGENCY LINE ITEM TRANSFER**

<u>FROM - Line Item</u>	<u>TO - Line Item</u>	<u>Amount</u>
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**PART E: NARRATIVE (attach separate sheets if necessary)**

## PART E. NARRATIVE

Pursuant to North Dakota Century Code section 49-22-22(2), the Public Service Commission (the "PSC") hereby requests approval of the Emergency Commission to assess Dakota Access, LLC additional fees reasonably necessary for the completion of the PSC's evaluation of transmission facility corridor and transmission facility route evaluation and designation process.

North Dakota Century Code section 49-22-22 requires an application fee for the recovery of expenses associated with the PSC's evaluation and designation process for siting energy conversion and transmission facilities. The Applicant must remit an application fee based on the dollars to be invested in the proposed project not to exceed one hundred thousand dollars. N.D.C.C. § 49-22-22(1)(f).

Dakota Access filed applications with the PSC for a certificate of corridor compatibility and a route permit concerning approximately 358 miles of 12-, 20-, 24-, and 30-inch diameter crude oil pipeline and associated facilities in Mountrail, Williams, McKenzie, Dunn, Mercer, Morton, and Emmons Counties, North Dakota; and terminals near Stanley in Mountrail County, near Tioga in Williams County, near Epping in Williams County, near Trenton in Williams County, near Watford City in McKenzie County, and near Johnsons Corner in McKenzie County. Accompanying the applications, Dakota Access filed an application fee of \$100,000 for the evaluation and designation process. The total estimated cost of the proposed project in North Dakota is \$1.41 Billion.

The North Dakota Energy Conversion and Transmission Facility Act (North Dakota Century Code chapter 49-22) authorizes the PSC to determine that the location, construction, and operation of jurisdictional energy conversion and transmission facilities will produce minimal adverse effects on the environment and the welfare of the citizens of North Dakota. The PSC utilizes third-party construction inspection services to ensure the project is constructed in compliance with the siting laws (North Dakota Century Code chapter 49-22), siting rules (North Dakota Administrative Code article 69-06), and the Commission's Order. The PSC has selected and retained a third-party inspector for the project, following a request for qualifications process. The third-party vendor's bid is \$108,258 for this project and will be paid from the application fee.

With the original \$100,000 application fee and an additional \$100,000 approved by the Emergency Commission, the PSC would be able to cover the expenses incurred to date of \$50,672 for legal fees, public notice and outreach, an administrative law judge, and expenses associated with three hearings; the additional outstanding legal fees expected of approximately \$2,200; the \$108,258 for third-party inspection services; and \$38,870 for use in the event that it is necessary to re-open and amend the case and to address subsequent legal requirements.

The statute contemplates that an application fee may not cover the entire cost of processing some siting applications, and therefore, provides that applicants shall pay additional fees as are reasonably necessary for completion of the siting process with Emergency Commission approval. In requesting additional fees for completion of the transmission siting process, the Applicant shall in no event be assessed under North Dakota Century Code section 49-22-22(1) and any additional fees pursuant to North Dakota Century Code section 49-22-22(2) an amount to exceed ten thousand dollars for each one

million dollars of investment in the proposed transmission facility. In the current case, this provides that the total amount of application fees assessed to Dakota Access shall not exceed \$14.1 Million due to the total estimated costs of \$1.41 Billion.

Based upon the extensive nature of this project, the PSC requests approval to assess an additional \$100,000 siting application fee. Dakota Access has been informed of this need and has informed the Commission that it has no objection to the additional fees requested. As required by statute, the PSC will refund any portion of the fee that exceeds expenses incurred.